



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,528	09/26/2003	Sylvia Monsheimer	236706US6	6515
22850 7590 01/20/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER COZART, JERMIE E				
ART UNIT		PAPER NUMBER		
3726				
NOTIFICATION DATE		DELIVERY MODE		
01/20/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* SYLVIA MONSHEIMER, RAINER GOERING and HANS RIES

---

Appeal 2009-006938  
Application 10/670,528  
Technology Center 3700

---

Decided: January 15, 2010

---

Before JENNIFER D. BAHR, JOHN C. KERINS and  
STEVEN D.A. McCARTHY, *Administrative Patent Judges*.

McCARTHY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

1  
2 The Appellants appeal under 35 U.S.C. § 134 from the Examiner's  
3 decision finally rejecting claims 10, 13, 17, 20, 24, 27, 31, 34, 38, 40 and 41  
4 under 35 U.S.C. § 103(a) as being unpatentable over Savitski (US 6,596,122

B1, issued Jul. 22, 2003) and Fischerkeller (US 6,155,302, issued Dec. 5, 2000). A hearing was held on January 13, 2010. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

Claim 10 recites:

10. A laser-welded composite part  
produced by a method for connecting a plastic pipe  
to another plastic part, wherein

an outer layer of the plastic pipe and an  
outer layer of the other plastic part are largely  
opaque to laser light of a certain wavelength,  
which comprises:

sheathing both the plastic pipe and the other  
plastic part ends thereof by an additional adaptor  
made of a plastic transmissive to laser light, and

fastening the adaptor to at least one of the  
plastic pipe and the other plastic part by laser-  
beam welding;

wherein the composite part is a motor-  
vehicle pipeline; and

wherein the other plastic part has at least one  
nipple which is provided for the connection to the  
pipe, wherein said nipple is provided on the  
outside with a profile.

Independent claims 17, 24 and 31 end with “wherein” clauses identical to  
the last “wherein” clause of claim 10.

ISSUES

The Appellants present a single argument attacking the rejections of claims 10, 13, 17, 20, 24, 27, 31, 34, 38, 40 and 41. Claim 10 is representative of the group. *See* 37 C.F.R. § 41.37(c)(1)(vii).

The Examiner finds that Savitski discloses the method steps recited for producing the composite part of claim 10 and that Fischerkeller discloses providing a plastic part with at least one externally profiled nipple for the connection of the plastic part to a plastic pipe. (Ans. 3-4). The Examiner reasons that it would have been obvious

to provide the other plastic part of Savitski with at least one nipple wherein the nipple is provided on the outside with a profile, in light of the teachings of Fischerkeller, in order to connect the other plastic part to the pipe. Such a modified construction of the Savitski pipes would enable pre-assembly of the pipes prior to laser welding, facilitating their alignment and providing a more reliable connection.

(Ans. 4). The resulting composite part would have had the structure of the laser-welded composite part claimed in claim 10 and might have been used as a motor-vehicle pipeline.

The Appellants contend that one of ordinary skill in the art would not have been motivated to modify one of the pipe ends connected by the method disclosed in Savitski to provide a nipple. The Appellants contend that this is so because Savitski already explicitly discloses a way to connect the pipe ends without a nipple. (App. Br. 6; Reply Br. 5). The Appellants also contend that this is so because one stated object of Savitski's method was to simultaneously form both lap and butt joints rather than joints in which the ends of the two joined pipes overlap. (Reply Br. 4).

1           This appeal turns on one issue:

2                   Have the Appellants shown that the Examiner failed to  
3           articulate reasoning with some rational underpinning sufficient  
4           to support the conclusion that it would have been obvious to  
5           provide one of the plastic pipes joined by Savitski's method  
6           with a nipple and to provide the nipple on the outside with a  
7           profile, thereby producing the laser-welded composite part  
8           claimed in claim 10?

9  
10                                   FINDINGS OF FACT

11           The record supports the following findings of fact ("FF") by a  
12   preponderance of the evidence.

13           1.    Savitski discloses a method for joining or connecting a plastic  
14   pipe 20 to another plastic pipe 30 to form a composite part. (Savitski, col.  
15   10, ll. 4-6).

16           2.    Savitski's method includes sheathing the end portions 16, 26 of  
17   the two pipes 20, 30 by an additional sleeve or adaptor 40 made of a plastic  
18   transmissive to laser light and fastening the adaptor 40 to at least one of the  
19   plastic pipes 20, 30 by welding. (Savitski, col. 10, ll. 19-42). Savitski  
20   teaches the use of a laser light source to weld the adaptor 40 to at least one  
21   of the plastic pipes 20, 30 as an equivalent interchangeable with the infrared  
22   light source described at column 10, lines 19-42 of Savitski. (See Savitski,  
23   col. 6, ll. 35-43).

24           3.    Outer layers of absorbing film 44b, 44c wrapped around the end  
25   portions 16, 26 of the two pipes 20, 30 prior to welding are largely opaque to  
26   laser light of a certain wavelength. (See Savitski, col. 10, ll. 14-18).

4. Savitski describes the method as simultaneously forming lap and butt joints between the pipes 20, 30. (Savitski, col. 10, ll. 4-6). Savitski describes the butt joints formed by Savitski's method as being smooth and gap free about the internal pipe bore. Savitski teaches that eliminating gaps eliminates the possibility that the absorbing film 44b, 44c wrapped around the end portions 16, 26 of the two pipes 20, 30 might contaminate fluid flowing past the joint. Savitski also teaches the desirability of eliminating any gaps about the internal pipe bore where debris and living organisms might accumulate. (Savitski, col. 4, ll. 38-42).

5. Fischerkeller discloses an attachment arrangement for a fuel line 20 on a connector 10. (Fischerkeller, col. 1, l. 66 – col. 2, l. 2). The fuel line is a rigid plastic tube or pipe. (Fischerkeller, col. 2, ll. 23-24).

6. Fischerkeller's connector 10 is a plastic nipple provided with a Christmas-tree profile on its outer circumference. (Fischerkeller, col. 2, ll. 7-15 and fig. 1).

#### PRINCIPLES OF LAW

Where, as here, an applicant fails to produce objective evidence sufficient to prove a secondary indicium of nonobviousness, the applicant's burden on appeal is to show that the examiner failed to produce sufficient evidence to establish prima facie obviousness. *In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006). In order to establish prima facie obviousness, the examiner must articulate reasoning with some rational underpinning to support the legal conclusion of obviousness. *Id.* at 988. "The obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance

of published articles and the explicit content of issued patents.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 419 (2007).

#### ANALYSIS

The Examiner has articulated an apparent reason to combine elements disclosed in Savitski and Fischerkeller in the fashion claimed in claim 10. The Examiner reasons that providing one of the plastic pipes joined by Savitski’s method with a nipple and providing the nipple on the outside with a profile would enable pre-assembly of the pipes prior to laser welding. The Examiner further reasons that enabling pre-assembly of the pipes prior to laser welding would have facilitated the alignment of the pipes and provided a more reliable connection. (Ans. 4). The Appellant does not contend that the Examiner’s reasoning lacks rational underpinning. The reasoning explains why one of ordinary skill would have considered providing one of the plastic pipes joined by Savitski’s method with a nipple even though Savitski already explicitly disclosed a way to connect the pipe ends without a nipple.

Savitski’s stated object of simultaneously forming lapped and butt joints between the pipe ends (*see* FF 4) would not have discouraged one of ordinary skill in the art from providing one of the plastic pipes joined by Savitski’s method with a nipple and providing the nipple on the outside with a profile. Savitski is merely silent as to the combination proposed by the Examiner. Savitski neither criticizes nor disparages providing one of the plastic pipes joined by Savitski’s method with a nipple.

Although Savitski articulates reasons why the formation of a butt joint between the pipes would have been desirable (*see* FF 4), these reasons

1 would not have led one of ordinary skill in the art away from the claimed  
2 subject matter. For example, Fischerkeller's disclosure of an attachment  
3 arrangement for a fuel line on a connector or nipple (*see* FF 5 and 6) implies  
4 that possible flow impairment or accumulation of debris and living  
5 organisms at the joint would not have discouraged one of ordinary skill in  
6 the art from providing a nipple for connecting pipes for such applications as  
7 motor-vehicle pipelines. One of ordinary skill in the art would have readily  
8 observed that insertion of the nipple into the end of the plastic pipe would  
9 have tended to shield fluid flowing past the joint from contamination by an  
10 opaque or light absorbing outer layer at the end portion of the plastic pipe.

## 11 12 CONCLUSION

13 The Appellants have not shown that the Examiner failed to articulate  
14 reasoning with some rational underpinning sufficient to support the  
15 conclusion that it would have been obvious to provide one of the plastic  
16 pipes joined by Savitski's method with a nipple and to provide the nipple on  
17 the outside with a profile, thereby producing the laser-welded composite part  
18 claimed in claim 10. Therefore, the Appellants have not shown that the  
19 Examiner erred in rejecting representative claim 10, or in rejecting those  
20 claims grouped with representative claim 10, under § 103(a) as being  
21 unpatentable over Savitski and Fischerkeller.

## 22 23 DECISION

24 We AFFIRM the Examiner's decision rejecting claims 10, 13, 17, 20,  
25 24, 27, 31, 34, 38, 40 and 41.



No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

m/s

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314